

RIO ARriba COUNTY

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IN THE DISTRICT COURT OF RIO ARriba COUNTY  
STATE OF NEW MEXICO

HORACIO CHACON, et al.,

Plaintiffs,

vs.

REMIGIO CHACON, et al.,

Defendants,

and

STATE OF NEW MEXICO,

Plaintiff-in-Intervention,

vs.

HORACIO CHACON, et al.,

Defendants-in-Intervention.)

No. 4922

W.P.P. 349-372

FINAL DECREE

THIS matter coming regularly before the Court for hearing, the plaintiffs appearing in person and by their attorneys Gilbert, White and Gilbert, and the Plaintiff-in-intervention appearing by J. Lee Cathey, Special Assistant Attorney General, and the defendants-in-intervention appearing in person and by their attorney Matias L. Chacon; and the Court, after examining the pleadings and hearing the evidence introduced and being otherwise fully advised in the premises now finds:

That the Court has jurisdiction of the subject matter and of the parties thereto, and that the various persons and community ditches or acequias named in the specific portions of this Decree hereinafter set out are adjudged to have water rights as in the said specific portions of this Decree set out, subject, however, to the general provisions of this Decree which are as follows:

A

GENERAL PROVISIONS

1. That the waters flowing in the Rio Puerco de Chama Stream System are natural waters belonging to the public and are subject to appropriation for beneficial use; that said stream system encompasses and is made up of the Rio Puerco and its tributaries, namely:

- (a) Rito de los Corralitos
- (b) Rito de Vega del Oso
- (c) Resumidera Creek (also known as Rito Resumidero)
- (d) Salitral Creek
- (e) Rito del Ojo
- (f) Aqua Sarco
- (g) Canon Cito Seco
- (h) Rito Poleo (also known as Rio Poleo)
- (i) Coyote Creek
- (j) Rito de las Sillas
- (k) Rito Encino

2. The purpose of this decree being to determine the rights of the respective claimants to divert and beneficially use the waters of the Rio Puerco de Chama and its tributaries, it is held for the purpose of this Decree that each party claimant or substituted party claimant is the owner of the respective tract or tracts of land, and of the respective ditches and canals and other works and the rights of way therefor and the sites thereof, as set out hereinafter in the specific portions of this Decree.

3. That this Decree being the determination of the rights of parties and substituted parties hereunder to divert and beneficially use water from the Rio Puerco de Chama and its tributaries, all rights herein adjudicated shall be considered with reference to the time of the closing of the taking of testimony herein, to-wit, November 17, 1960, as stipulated and agreed to by the parties hereto, and shall not

affect any right to divert water from said river and its tributaries thereafter initiated or any loss of any right herein decreed by abandonment or otherwise after said date as provided by law.

4. That only 1.5 acre feet of water per acre per annum delivered at the farm headgate, is the maximum duty of water for the Rio Puerco de Chama Stream System, and said limitation shall be read into every specific portion of this decree, and no owner of any water right may divert more than said amount of water per acre per annum, delivered at the farm headgate of the land irrigated by him, as set out in the specific provisions of this Decree.

5. That for the purposes of this Decree, where the specific portions thereof describe the owners of any lands and water rights appurtenant thereto under the general designation "estate of" or "heirs of" any person deceased, or "administrator" or "executor", such designation shall be deemed and construed to describe any and all persons in whom, whether as heirs of any deceased person, or as executors or administrators or other representatives of any person deceased or the estate of any person deceased, is vested, by testamentary disposition or by operation of law, title to the lands and water rights so described.

6. That except and unless the specific portions of this Decree otherwise provide and set forth, all water rights hereafter fixed, determined and limited are appurtenant to the lands upon which the waters diverted and appropriated under such rights are beneficially used, as set forth in such specific

portions of this Decree, and such appurtenant water rights may be severed hereafter from said lands, only in accord with the provisions of the laws of the State of New Mexico in such case made and provided.

7. That the priorities and acreages of the water rights of each of the parties are hereinafter set forth in the Special Provisions of this Decision.

8. One of the tributaries of the Rio Puerco del Norte, in Rio Arriba County, is the Rito Resumidero, which joins the Rio Puerco in the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 33, Township 22 North, Range 2 East, N.M.P.M., as shown on U. S. Geological Survey Map of the Jarosa Quadrangle (Scale 1:24000, U.S.G.S. Ident. No. N 3600 - W 10637.5/7.5; 1953), Plaintiffs' Exhibit 4 in this case.

9. Said Rito Resumidero, in turn is formed by and from the confluence of two smaller streams or creeks, known as El Rito de los Corralitos (or simply "Corralitos") and El Rito de la Vega del Oso (or simply Vega del Oso) which join and converge at or near the quarter corner on the section line between Section 19 and Section 30; T. 22 N., R. 2 E., N.M.P.M., as shown on Sheet 25 of Intervenor's Hydrographic Survey.

10. Almost exactly one mile due East of the confluence of said Corralitos and Vega del Oso creeks, there is a sink-hole, commonly called in the Spanish language, "resumidero", at the northerly edge of Section 29, as shown on Sheet 24 of Intervenor's Hydrographic Survey. Water flowing in the Rito Resumidero, to the extent of the capacity of said sink-hole, will drain into the sink-hole, and due to the existence of under-

rights for irrigation purposes, are entitled to appropriate waters from the sources herein specified for domestic and barnyard uses by each household served by Plaintiffs' ditches.

### SPECIFIC PROVISIONS

#### 1.

La Acequia del Medio del Rio del Poleo, also known as La Acequia de la Mesa del Rio del Poleo, and as Acequia Mesa del Medio, and as Acequia del Medio;

Merejildo Valdez, Juan Manuel Velasquez and Medardo Garcia, Commissioners; and Tomas Velasquez, Mayordomo of said La Acequia Mesa del Medio (Old Water Right No. 080)

Priority: 1880

#### Owners and Respective Acreages Acequia Mesa del Medio No. 1

	Amount of Acreage	Location of Acreage	Hydro-graphic Survey Map Sheet No.
1. Fidel Martinez, Jr., (single) (formerly of Benito Martinez)	13.9 A.	S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec 15, T. 22N, R. 2 E.	19
2. Manuel Valdez & Juanita C. Valdez	14.1 A.	N $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 15, T. 22 N, R. 2 E.	19
3. Merejildo Valdez and Emilia Valdez and Jose P. Valdez and Teresina Valdez	35.7 A.	E $\frac{1}{2}$ Sec. 15, T. 22 N, R. 2 E.	19
4. Jose Onisimo Lujan and wife Corlinda Lujan	42.2 A.	E $\frac{1}{2}$ Sec. 14, T. 22 N., R. 2 E.	19
5. Froilan Chacon, dec. son Misel Chacon, (son and heir of Froilan Chacon died)	7.6 A.	E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 14, T. 22 N., R. 2 E.	19
6. Merejildo Martinez and Natividad Martinez	51.0 A.	NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 14, T. 22 N., R 2 E. & S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 11, T. 22 N., R. 2 E.	16, 19, 20
7. Defin Martinez and Ercila Martinez	11.7 A.	S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 11, T. 22 N., R. 2 E.	16
8. Medardo Garcia and Octaviana Garcia	22.1 A.	S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 11, T. 22 N., R 2 E.	16
9. Jose Mateo Garcia, single	4.0 A.	Pt. S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 11, T. 22 N., R 2 E.	16
10. Elias Garcia and Deluvina Garcia	17.2 A.	Pt. S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 11, T. 22 N., R. 2 E.	16